

MINUTES
OF THE
TOBACCO EDUCATION AND RESEARCH OVERSIGHT COMMITTEE

MAY 17, 2001

DEPARTMENT OF HEALTH SERVICES
MALCOLM MERRILL CONFERENCE ROOM
601 N. 7TH STREET, SACRAMENTO, CA

MEMBERS PRESENT:

LOURDES BAËZCONDE-GARBANATI, PH.D.
DAVE BURNS, M.D.
JENNIE R. COOK, CHAIRPERSON
CHERYL RANEY
DOROTHY RICE

VACANCIES (APPOINTING AUTHORITY):

HEALTH CARE EMPLOYEES REPRESENTATIVE
(SENATE RULES COMMITTEE)
VOLUNTEER HEALTH ORGANIZATION REPRESENTATIVE.
(SPEAKER OF THE ASSEMBLY)
LOCAL HEALTH DEPARTMENT REPRESENTATIVE
(GOVERNOR)
TARGET POPULATION GROUP REPRESENTATIVE
(GOVERNOR)
DEPARTMENT OF HEALTH SERVICES REPRESENTATIVE
(GOVERNOR)

MEMBERS ABSENT:

THOMAS PATON
KEN WESSON
GEORGE RUTHERFORD, M.D, M.P.H.

OTHERS IN ATTENDANCE:

Dileep G. Bal, M.D. Chief, Cancer Control Branch, Department of Health Services (DHS)
Theresa Boschut, BREATH – American Lung Association (ALA), East Bay
Anissa Bromley, Ground Zero
Jeff Clingenpeel, Health Program Specialist, DHS, Tobacco Control Section (TCS)
David Cowling, DHS/TCS
Bob Curry, North Coast Tobacco Prevention Network
Laura Eastman, Ground Zero
Dennis Eckhart, Tobacco Litigation and Enforcement Unit, Department of Justice
Greg Franklin, Chief, Office of Multicultural Relations, DHS
Gregory Garcia, Asian Pacific Commercial Counseling
Larry Gruder, Ph.D, Director, Special Research Projects, University of California (UC)

Susanne Hildebrand-Zanki, Ph.D., Program Director, Tobacco-Related Disease Research Program
Joon-Ho Yu, Asian Pacific Islander Tobacco Education Network (APITEN)
Gerald Kilbert, Ed.D, Department of Education, California Healthy Kids Program Office (C HKPO)
Dian Kiser, Breath- ALA, East Bay
Kirk Kleinschmidt, American Heart Association (AHA)
Paul Knepprath, ALA
Kristi Koumjian, DHS/TCS
Jon Lloyd, Chief, Data Analysis and Evaluation Unit, DHS/TCS
Carolyn Martin, Tobacco Policy Consultant
Sharon Muraoka, American Cancer Society
Tony Najera, Consultant
Greg Oliva, DHS/TCS
Cathy Palmer, DHS/TCS
Lisa Rea, AHA
April Roeseler, DHS/TCS
Robin Shimizu, Assistant Chief, DHS/TCS
Colleen Stevens, DHS/TCS
Hao Tang, DHS/TCS
Roxanna Ursua, APITEN

1. WELCOME AND INTRODUCTIONS

Mrs. Jennie R. Cook, Chair, called the meeting to order at 10 a.m. She announced to the committee that there had been a change in membership within Tobacco Education and Research Oversight Committee (TEROC); the Superintendent of Public Instruction in the Department of Education had appointed Ms. Cheryl Raney to replace Dr. Gus Dalis, whose term had expired. The Chair welcomed Ms. Raney, and then asked her to introduce herself to the members and others in attendance. Ms. Raney thanked the Chair, and informed the committee that her background was mostly in education and that she has worked for the Sacramento County Office of Education since 1989. She currently is the Director of Prevention and Student Services, and part of their role is to help implement the Tobacco Use Prevention Education Program.

Mrs. Cook then asked for all in attendance to briefly introduce themselves.

2. APPROVAL OF MINUTES, REVIEW OF CORRESPONDENCE

Mrs. Cook asked for a **MOTION** to approve the meeting minutes that were mailed to all the members. **MOTION CARRIED UNANIMOUSLY**, and the **MINUTES** were approved.

Mrs. Cook stated that the only item left over from the last meeting concerned the letter sent by TEROC to the Academic Council at the UC. This letter was in follow-up of a previous letter sent to the UC Regents requesting that the UC consider the adoption of a university-wide policy prohibiting researchers and investigators from accepting funds from the Phillip Morris External Research Program and similar entities. She informed the committee that the second follow-up letter had been sent, and that as yet no response had been received.

In other news, the Chair informed the committee that the State of California has joined with Washington, Arizona, New York, and Ohio in a lawsuit against the R. J. Reynolds Tobacco Company. The lawsuit concerns the targeting of children through magazine advertising.

Dennis Eckhart of the Attorney General's (AG) office added that there were currently two lawsuits against R. J. Reynolds in California. The first concerns the placement of advertisements for their cigarettes in magazines that have significant youth readership. The second lawsuit concerns tobacco signage at NASCAR-affiliated auto racing tracks. The tobacco company's contention was that they can put signs up anywhere there is a NASCAR event -- anywhere in the country as long as there is a NASCAR event associated with the locale of the sign.

The Chair noted that during the last few months she has seen numerous articles in the local newspaper on teenage smokers. She added that a common theme resonated in the articles -- the higher the taxes on cigarettes, the less the consumption.

In addition, the Chair made note of the fact that an editorial had appeared in the *Marin County Independent Journal* reporting that the Marin County Board of Supervisors had awarded the county \$1 million annually from the Master Settlement Agreement. Of this amount, \$500,000 was to be spent on tobacco control efforts and the other \$500,000 was to be earmarked for health care.

Lastly, the Chair announced that the tobacco control programs in British Columbia and Canada had recently announced that they were planning to emulate the California program.

3. PROPOSITION 65 & HERBAL CIGARETTES

With no other announcements or news to report to the committee, the Chair then moved to the next agenda item and asked Mr. Eckhart of the AG's office to talk a little bit about Proposition 65 and herbal cigarettes. Mr. Eckhart stated that it was his understanding that the Committee wanted to know if it was possible for the Attorney General or a private citizen to bring action against an herbal cigarette manufacturer under the provisions of Proposition 65. As a preface to his discussion, Mr. Eckhart said that he was not really an expert on the enforcement of Proposition 65, but that he did meet with Ed Weil from the AG's office that is the expert in this area.

Mr. Eckhart informed the committee that the Federal Trade Commission had ruled that the manufacturer of "Herbal Gold" had to include on their packaging and advertising and on their web site a Surgeon General's warning. One problem, he explained, is that these products (with the exception of "clove" cigarettes) contain no tobacco, which in effect negates all enforceable statutes relating to tobacco products, such as excise taxes, prohibitions on the sales to minors, etc. He added that the federal warning is probably as good or better than the Proposition 65 warning (in the event litigation were to ensue). The Chair added that the provisions of Assembly Bill (AB) 13 the statewide are not applicable to herbal cigarettes.

Dr. Hildebrand-Zanki asked Mr. Eckhart what it would take to get the State to be interested in filing a lawsuit against the manufacturers of herbal cigarettes or even imposing certain regulations like a warning label.

Mr. Eckhart said that he would want to know how many other manufacturers there were of the herbal cigarettes, and then conduct some sort of priority assessment. Professor Rice then asked if the tax structure for manufacturers of herbal cigarettes is similar to the tobacco industry. Mr. Eckhart replied that the state and federal cigarette surtaxes do not apply to herbal cigarettes.

4. LEGISLATIVE UPDATE

The Chair thanked Mr. Eckhart for his information and moved on to the next item on the agenda, an update on tobacco-related legislation by Lisa Rea from the American Heart Association (AHA).

Ms. Rea handed out a summary of legislative bills that the AHA was tracking this session. She briefly discussed the following legislative bills:

- **AB 1527** – A “securitization bill.” This bill would establish an advisory committee to study the impact of securitizing the state’s share of tobacco settlement funds.
- **SB 35** -- Authored by Escutia, this bill would create the Tobacco Settlement Fund in the State Treasury. She stated that the AHA is co-sponsoring the bill along with the American Lung Association (ALA), the American Cancer Society (ACS), the Americans for Nonsmoker Rights (ANR), and the Center for Tobacco Free Kids.
- **AB 224** (Smokeless Tobacco) is on the Board of Equalization’s (BOE) agenda for May 31, 2001. The bill would require the BOE to develop a weight-based formula for determining the equivalent rate for the surtax on smokeless tobacco.

Paul Knepprath of the ALA addressed the committee and encouraged TEROC to “weigh-in” on this issue either at the BOE meeting, May 31, 2001, or by sending a letter to the BOE Chairperson. Mrs. Cook asked Mr. Knepprath if he would be willing to send her more information on this matter. He responded that he would forward information he had as soon as he got back to his office.

5. REPORTS BY: TOBACCO CONTROL SECTION, CALIFORNIA DEPARTMENT OF EDUCATION & THE UC, TOBACCO-RELATED DISEASE RESEARCH PROGRAM

Dr. Bal, speaking on behalf of TCS, spoke briefly about upcoming changes in the TEROC membership. He said that it is his understanding that most of the TEROC members’ terms have already expired, and that the Governor’s Office has been reviewing applicants and is now in the process of finalizing appointments.

As part of TCS’s report, Jon Lloyd introduced David Cowling, Ph.D. of the Data Analysis and Evaluation Unit to present the latest Epi-surveillance data for the year 2000.

Using overheads, Dr. Cowling gave a concise and informative overview of some of the highlights of the Behavioral Risk Factor Surveillance System (BRFSS) and the California Adult Tobacco Survey (CATS). Dr. Cowling reported that in 1996, the definition of smoking was changed to include more “occasional smokers” which had the effect of increasing smoking prevalence by 1 to 2 percentage

points. He then presented a series of overheads that summarized smoking prevalence by age group. In all adult age groups, prevalence declined except for the 18 to 24 year old group, which since 1996 has gone up from 20.6 to 21.9.

Dr. Cowling noted that, in youth (age 12 to 17) smoking prevalence, there is little or no difference between males and females. For all age groups there was a continuing decline in smoking prevalence during 1999 - 2000, with the exception of the 16 to 17 year old age group, which actually reversed the trend and showed an increase. Additionally, when looking at ethnicity and smoking prevalence, Hispanics made up the only population that demonstrated an increase in smoking.

Lourdes Baèzconde-Garbanati asked if TCS is compiling data that goes beyond the telephone surveys in communities. Jon Lloyd answered by saying that there were no household surveys taken, mostly because they are very costly. He added that the telephone surveys have traditionally been shown to be a fairly reliable indicator. The Chair then thanked Dr. Cowling for sharing his findings with TERO.

Dr. Gerald Kilbert of the Department of Education gave the next report. Mr. Kilbert informed the Committee that since they were discussing the topic of data collection and surveys, there were two additional surveys that should be mentioned; the *California Student Survey* that is conducted every two years, and the *California Healthy Kids Survey*.

Dr. Kilbert told the members of TERO that the California Healthy Kids Program Office had just recently completed the Grant Award cycle for the Tobacco-Use Prevention Education program in Grades 9-12. He explained that these competitive grants were designed to provide funding to enable schools to implement prevention education, intervention and cessation programs, and youth development programs directed at the reduction of tobacco use among students in grades 9-12. He added that there were no appeals in the application phase of this grant process.

Dr. Kilbert also called attention to the letter in the member's packets that were co-signed by Attorney General Lockyer and State Superintendent Eastin. This letter referenced the Philip Morris' book cover campaign that was denounced by the Attorney General and Superintendent Eastin, and the subsequent agreement by Philip Morris to cease their distribution of book covers. Moreover, the Department of Education and the Attorney General asked Philip Morris which schools and which districts received those book covers and, surprisingly, Phillip Morris agreed to give them that data.

Dr. Kilbert also informed the Committee that the tobacco industry has issued a Request for Proposals to schools and communities, and is offering up to \$25,000 to implement research based tobacco programs in their schools and communities nationwide.

Suzanne Hildebrand-Zanki, reporting on the Tobacco-Related Disease Research Program (TRDRP), informed the Committee that TRDRP is in the middle of its 2001-2002 Grant Cycle. She said that there would be a "new crop of grants" this year, and added that she should be able to report on these by the next meeting. Then Dr. Hildebrand-Zanki expressed her continued concern about the 14 percent decrease in TRDRP's budget (the 14 percent that the Governor's Proposed Budget would redirect to the California Cancer Registry (CCR)). On top of this decrease, TRDRP is facing a \$600,000 additional cut in its budget.

Dr. Hildebrand-Zanki said that she would send TERO members a copy of the new TRDRP annual report.

The TRDRP annual Investigators Meeting will be held on December 6 and 7, 2001 in Los Angeles. The theme will be “*Research on Tobacco: Addressing California’s Diverse Populations.*” Lastly she reported that she and Diane Kiser attended the European Conference on “Smoke-Free Work Sites” in Berlin, Germany last week and that there were nine organizing bodies including the German Cancer Society, the European Smoke-Free Networks, along with 200 participants from 26 countries. She said that she presented on the California experience looking at AB 13 implementation and the data from before and after in terms of prevalence and consumption.

Dr. Burns asked Dr. Hildebrand-Zanki about the amount of money in the Research Budget, specifically the proportion of money over time that has been shifted to the CCR.

Dr. Hildebrand-Zanki said that approximately \$1.7 million dollars out of the total \$22 million goes to the Registry each year. The remainder is earmarked for TRDRP.

Dr. Larry Gruder stated that the Breast Cancer Research Fund is divided into two parts: the Breast Cancer Control Account and Breast Cancer Research Account. They each get 50 percent. The Breast Cancer Research Program receives 90 percent of the 50 percent, and the CCR receives 10 percent of the 50 percent.

Dr. Burns then asked Dr. Hildebrand-Zanki and Dr. Gruder to report on the past and current proportion of the aggregate TRDRP funds going to support the CCR. Secondly, Dr. Burns noted that it is important to know what impact siphoning-off of funds has had on grant funding. Thirdly, he said it would be useful to have a future projection over the next three to five years, assuming a continuing decline in Proposition 99 (Prop 99) funds, to estimate the expected effect on the residual funding. For purposes of clarification, Dr. Burns repeated the three separate pieces of the TRDRP information he was requesting, and then expressed the request as a motion. The motion was then carried.

Dr. Burns also moved that, when that report is completed, a letter from TEROc be sent expressing concern about this diversion of monies and its ultimate impact on TRDRP’s ability to continue funding tobacco research. He suggested that the letter be addressed to the Department of Finance (DOF), the Governor, and the Budget communities in both Houses of the Legislature. This motion was also carried.

6. UPDATE ON 2001-2002 GOVERNOR’S BUDGET

Ms. Robin Shimizu of TCS distributed copies of the Prop 99 budget. She reported that there were no funding cuts in the Prop 99 Health Education Account (HEA). When asked the reason for this, Ms. Shimizu speculated it might be due to the efforts of the advocates. She reported that programs depending on General Funds are undergoing across-the-board cuts, as well Prop 99 programs elsewhere.

Ms. Shimizu informed the members of TEROc that recently she has been in contact with staff of the DOF in charge of the HEA funded by Prop 99 revenues in an effort to better understand the budget process. She said she still does not understand why Prop 99, HEA, FY 2001-2002 budget was not reduced on a prorated basis as it had in the past.

The Chair then called attention to the Master Settlement Agreement (MSA) money that is in the Governor's Budget. She stated that \$20 million from the MSA payments is for youth anti-tobacco program expansion, and amounts to approximately 4 percent of the total MSA annual payment.

Ms. Shimizu stated that as a result of a federal waiver, the Healthy Families Program will have a one-time savings of \$44 million. Additionally, because of a \$7 million miscalculation, the MSA fund now has a balance of approximately \$76 million. Some of the programs funded with MSA dollars are Healthy Families, Medi-Cal Eligibility, Breast Cancer Treatment, Prostate Cancer, and the Youth Anti-Tobacco Expansion.

Ms. Shimizu stated that the plan being considered is to augment the Data Analysis and Evaluation Unit budget by about 10 percent to pay for some specialized data analyses that TCS has been wanting to do for some time now. There is also a proposal to revamp the Helpline so it would be able to be responsive to the increased number of calls caused by referrals from the Managed Care System. As it is now, the capacity of the Helpline limits its ability to serve people referred by the Health Maintenance Organizations.

Kirk Kleinschmidt asked what TCS thought of the "10 percent challenge" in regards to the target for smoking prevalence, and what kind of monetary support that TCS would need to achieve it.

Mr. Lloyd spoke up and said that "a 10 percent goal is very ambitious, but it could be achieved." He felt confident that given adequate funding, the 10 percent challenge could be met. He said that he felt that it was a goal worth aiming for, and in response to the question of how much money would be required, he indicated that he would fall back on the Centers for Disease Control and Prevention (CDC) guidelines to better estimate the costs. He added that the CDC guidelines offer a very realistic goal, and the minimum levels of funding recommended by the CDC are really adequate to do the job.

Dr. Hildebrand-Zanki stated that some of the money should be used to improve cessation services in this state, which would serve to enhance the State's tobacco control program by making it even more comprehensive.

At this point, Rich Hines, Project Consultant for the Local Lead Agency (LLA) Project Directors Association, asked the Chair for a minute of the Committee's time. He stated that he represented the 61 LLAs throughout the state that implement Prop 99 funding programs and is overseen by TCS. He said that he was asked to come to the meeting to urge TEROc to consider addressing the per capita funding inequities that exist between counties. He added that the Project Directors' Executive Committee would like to go on record and request that TEROc look into some way of addressing these mid-sized counties that are being decimated by budget cuts.

7. MEDIA CAMPAIGN UPDATE

Colleen Stevens, Chief of the Media Unit, stated that the media campaign now has a budget of \$45 million. With this increased amount of money, Ms. Stevens informed the Committee that there now is an ongoing media campaign in all the counties and an increased media presence in the rural counties. She distributed copies of all of the approved print ads and/or billboards ads. Ms. Stevens stated that in the last couple of weeks the Governor's office had approved TV and radio ads that were "decidedly anti-tobacco industry". At this point, Ms. Stevens presented a few of the anti-tobacco videotape ads

to all in attendance. Lastly, she ended her update by stating that the “Drug Cartel” and “Struggle” ads were still not approved.

In light of the new approved ads, the Chair was asked if TEROC might consider writing a letter congratulating the Director of the Department of Health Services for her quick approval of the new media campaigns and to inquire when the remaining produced ads would be approved.

8. UPDATE ON YOUTH TOBACCO SURVEY

The Chair reminded the Committee that there was to be an update on the situation that existed between the CDE and TCS about school-based surveys. Mr. Lloyd informed the members that DHS had met with CDE and again went over the whole plan about a school-based survey. A mutually agreeable resolution on this matter was reached. CDE has joined with DHS in a joint letter to school districts throughout the state encouraging support for school participation in the survey.

The Chair then asked Mr. Lloyd and Dr. Kilbert of the CDE if there were going to be any questions on their survey regarding things such as *bidis*, *honey blunts*, or *clove cigarettes*, etc. Mr. Lloyd said that in their survey *chew* and *bidis* were included, but he was not sure if *honey blunts* or *clove cigarettes* were included.

Mr. Lloyd asked Dr. Kilbert if CDE’s California Healthy Kids Survey address these tobacco products. Dr. Kilbert responded that some were, but he was not sure which ones were included.

Mr. Lloyd explained that the DHS survey is designed to collect data from demographically homogenous regions, in contrast to the California Healthy Kids Survey, which is designed to be a district-based survey.

9. OTHER BUSINESS: ADJOURN

With all of the items being addressed on the agenda, the Chair announced that the next scheduled TEROC meeting will be on August 16, 2001 in Sacramento. The time of the meeting will be from 10:00am to 1:00pm.

With no questions being heard, the meeting was adjourned at 12:45 p.m.